

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

C.A. NO. 03-CV-12341-MEW/HB2

DIRECTV, INC.,
Plaintiff

VS.

MANUEL SIMOES,
Defendant

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**DEFENDANT, MANUEL SIMOES', ANSWER AND JURY CLAIM
TO THE PLAINTIFF'S COMPLAINT**

NOW COMES the defendant, Manuel Simoes, and in answering the plaintiff's Complaint, admits, denies and alleges as follows:

INTRODUCTION:

**DIRECTV AND THE SATELLITE
TELEVISION BROADCASTING BUSINESS**

1. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 1 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
2. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 2 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
3. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 3 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

4. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 4 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
5. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 5 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
6. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 6 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

DIRECTV'S SECURITY SYSTEM

7. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 7 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
8. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 8 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
9. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 9 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
10. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 10 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

11. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 11 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
12. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 12 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
13. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 13 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
14. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 14 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
15. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 15 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

PARTIES

16. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 16 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
17. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 17 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

18. The defendant denies the allegations contained in Paragraph No. 18 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
19. The defendant denies the allegations contained in Paragraph No. 19 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
20. The defendant denies the allegations contained in Paragraph No. 20 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
21. The defendant denies the allegations contained in Paragraph No. 21 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
22. The defendant denies the allegations contained in Paragraph No. 22 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
23. The defendant denies the allegations contained in Paragraph No. 23 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

SUBJECT MATTER JURISDICTION

24. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 24 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
25. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 25 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

VENUE

26. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 26 of the plaintiff's Complaint and calls upon the plaintiff to

prove same.

COUNT I
UNAUTHORIZED RECEPTION OF SATELLITE SIGNALS
IN VIOLATION OF 47 U.S.C. § 605(a)

27. The defendant repeats and realleges his response to Paragraph Nos. 1 through 26 above as if each was separately set forth herein.
28. The defendant denies the allegations contained in Paragraph No. 28 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
29. The defendant denies the allegations contained in Paragraph No. 29 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
30. The defendant denies the allegations contained in Paragraph No. 30 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

WHEREFORE, the defendant, Manuel Simoes, demands a judgment of dismissal of this action together with all damages, costs and expenses as may be incurred by the defendant, including without limitation, attorney's fees and such other relief as the Court deems to be proper.

COUNT II
UNAUTHORIZED INTERCEPTION OF ELECTRONIC COMMUNICATIONS
IN VIOLATION OF 18 U.S.C. § 2511(1)

31. The defendant repeats and realleges his response to Paragraph Nos. 1 through 30 above as if each was separately set forth herein.
32. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 32 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

33. The defendant denies the allegations contained in Paragraph No. 33 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
34. The defendant denies the allegations contained in Paragraph No. 34 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
35. The defendant denies the allegations contained in Paragraph No. 35 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

WHEREFORE, the defendant, Manuel Simoes, demands a judgment of dismissal of this action together with all damages, costs and expenses as may be incurred by the defendant, including without limitation, attorney's fees and such other relief as the Court deems to be proper.

COUNT III
ASSISTING IN THE UNAUTHORIZED USE/INTERCEPTION SIGNALS IN
VIOLATION OF TITLE 47 U.S.C. § 605

36. The defendant repeats and realleges his response to Paragraph Nos. 1 through 35 above as if each was separately set forth herein.
37. The defendant denies the allegations contained in Paragraph No. 37 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
38. The defendant denies the allegations contained in Paragraph No. 38 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
39. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 39 of the plaintiff's Complaint and calls upon the plaintiff to prove same.
40. The defendant denies the allegations contained in Paragraph No. 40 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

41. The defendant denies the allegations contained in Paragraph No. 41 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

42. The defendant denies the allegations contained in Paragraph No. 42 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

WHEREFORE, the defendant, Manuel Simoes, demands a judgment of dismissal of this action together with all damages, costs and expenses as may be incurred by the defendant, including without limitation, attorney's fees and such other relief as the Court deems to be proper.

**COUNT IV
ASSEMBLY, MANUFACTURE AND/OR MODIFICATION OF DEVICES OR
EQUIPMENT IN VIOLATION OF TITLE 47 U.S.C. § 605**

43. The defendant repeats and realleges his response to Paragraph Nos. 1 through 42 above as if each was separately set forth herein.

44. The defendant denies the allegations contained in Paragraph No. 44 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

45. The defendant denies the allegations contained in Paragraph No. 45 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

46. The defendant is without sufficient information or knowledge to admit or deny the allegations contained in Paragraph No. 46 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

47. The defendant denies the allegations contained in Paragraph No. 47 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

48. The defendant denies the allegations contained in Paragraph No. 48 of the plaintiff's Complaint and calls upon the plaintiff to prove same.

WHEREFORE, the defendant, Manuel Simoes, demands a judgment of dismissal of this action together with all damages, costs and expenses as may be incurred by the defendant, including without limitation, attorney's fees and such other relief as the Court deems to be proper.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The plaintiff's Complaint fails to state a cause of action for which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

If, in fact, the defendant owed the plaintiff anything, which he denies, the same has been satisfied in full.

THIRD AFFIRMATIVE DEFENSE

The plaintiff's action is not timely and is barred by those statutes dealing with the limitation of actions.

FOURTH AFFIRMATIVE DEFENSE

The plaintiff has failed to meet those statutory requirements prerequisite to maintain this action.

FIFTH AFFIRMATIVE DEFENSE

Service of process has not been properly effected on the defendant.

SIXTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant states that if the plaintiff suffered damages as alleged, such damages were caused by a person or entity for whose conduct the defendant was not and is not legally responsible.

SEVENTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant states that the plaintiff, by its conduct and actions and/or the conduct and actions of its agents and servants, is estopped from recovering any judgement against the defendant.

EIGHTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant states that the plaintiff, by its conduct and actions and/or by the conduct and actions of its agents and servants, has waived any and all rights it may have against the defendant, and therefore the plaintiff cannot recover in this action.

NINTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant states that the plaintiff's Complaint should be dismissed because the plaintiff has failed to exhaust administrative remedies or remedies available under state law.

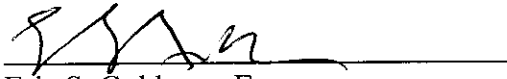
TENTH AFFIRMATIVE DEFENSE

By way of affirmative defense, the defendant states that the plaintiff's claim is insubstantial, frivolous and/or advanced in bad faith (M.G.L. c.231, §6F).

JURY CLAIM

The defendant, Manuel Simoes, hereby demands a trial by jury on all claims and defenses.

Respectfully submitted,
MANUEL SIMOES, Defendant
By his attorney,

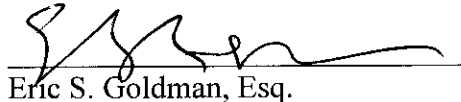


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DATE: March 16, 2004

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record for each of the other parties by postage prepaid, first class mail on March 16, 2004



Eric S. Goldman, Esq.